

112TH CONGRESS
1ST SESSION

H. R. 2072

To reauthorize the Export-Import Bank of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2011

Mr. GARY G. MILLER of California (for himself, Mr. BACHUS, Mr. FRANK of Massachusetts, and Mrs. MCCARTHY of New York) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To reauthorize the Export-Import Bank of the United States,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Securing American Jobs Through Exports Act of 2011”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; statement of purpose.
- Sec. 3. Extension of authority.
- Sec. 4. Limitations on outstanding loans, guarantees, and insurance.
- Sec. 5. Content guidelines for the provision of Bank financing.
- Sec. 6. Biennial audits of Bank transactions.

- Sec. 7. Use of portion of Bank surplus to update information technology systems.
- Sec. 8. Monitoring of default rates on Bank financing; reports on default rates.
- Sec. 9. Sense of the Congress regarding Bank accountability.
- Sec. 10. Sub-Saharan Africa Advisory Committee.
- Sec. 11. Extension of authority to provide financing for the export of nonlethal defense articles or services the primary end use of which will be for civilian purposes.
- Sec. 12. Elimination of obsolete provisions.
- Sec. 13. Effective date.

1 **SEC. 2. FINDINGS; STATEMENT OF PURPOSE.**

2 (a) FINDINGS.—The Congress finds as follows:

3 (1) Export sales by United States companies
4 are critical to national economic growth.

5 (2) Increased demand for United States exports
6 in emerging markets will help small and large com-
7 panies maintain and create United States jobs.

8 (3) The Export-Import Bank contributes to a
9 stronger national economy by financing the export of
10 United States goods and services in markets where
11 private capital is limited or unavailable.

12 (4) The Export-Import Bank of the United
13 States does not compete with private sector lenders.

14 (5) The Export-Import Bank of the United
15 States helps finance United States exports to 183
16 countries.

17 (6) A large percentage of global growth will be
18 centered in markets served by the Export-Import
19 Bank of the United States, and the Bank will be

1 critical to helping United States companies compete
2 for these opportunities.

3 (7) Through its support for exports, in fiscal
4 year 2010 the Export-Import Bank of the United
5 States supported 227,000 American jobs at over
6 3,300 companies.

7 (8) The Export-Import Bank of the United
8 States helps to level the playing field for United
9 States exporters by matching the financing that
10 other governments provide to their exporters.

11 (9) All the leading exporting nations have offi-
12 cial export credit agencies that are used actively to
13 support their exporters.

14 (10) Through its insurance, loan, and loan
15 guarantee products, the Export-Import Bank of the
16 United States supports the promotion and mainte-
17 nance of high levels of employment and real income
18 and increased development of the productive re-
19 sources of the United States.

20 (11) The Export-Import Bank of the United
21 States requires reasonable assurance of repayment
22 for the transactions it authorizes, and the Bank
23 closely monitors credit and other risks in its port-
24 folio. The Bank prices transactions based on its risk
25 assessment of the buyers.

1 (12) Since 1934, the net loss rate for all
2 long-, medium-, and short-term loans made by the
3 Export-Import Bank of the United States is 1.5 per-
4 cent.

5 (13) The Export-Import Bank of the United
6 States has been a self-sustaining institution since
7 fiscal year 2008, and surpluses of the Bank are re-
8 mitted to the United States Treasury. From fiscal
9 years 2008 through 2010, the Bank generated a
10 surplus of \$551,000,000.

11 (14) In fiscal year 2010, the Export-Import
12 Bank of the United States provided a record
13 \$5,000,000,000 directly supporting United States
14 small business exporters through 3,091 transactions,
15 representing 20 percent of the total value of the
16 Bank's authorizations and nearly 88 percent of the
17 total number of the Bank's authorizations.

18 (b) STATEMENT OF PURPOSE.—The purpose of this
19 Act is to reauthorize the activities and operations of the
20 Export-Import Bank of the United States to ensure that
21 the Bank provides financing, when commercial banks are
22 unable or unwilling to do so, competitive with the financ-
23 ing provided by foreign export credit agencies, in order
24 to enable United States companies to contribute to a
25 stronger national economy by maintaining or increasing

1 the employment of workers in the United States through
2 the export of goods and services.

3 **SEC. 3. EXTENSION OF AUTHORITY.**

4 Section 7 of the Export-Import Bank Act of 1945
5 (12 U.S.C. 635f) is amended by striking “2011” and in-
6 serting “2015”.

7 **SEC. 4. LIMITATIONS ON OUTSTANDING LOANS, GUARAN-**
8 **TEES, AND INSURANCE.**

9 Section 6(a)(2) of the Export-Import Bank Act of
10 1945 (12 U.S.C. 635e(a)(2)) is amended—

11 (1) in subparagraph (D), by striking “and”;

12 (2) in subparagraph (E), by striking the comma
13 at the end and inserting a semicolon; and

14 (3) by adding at the end the following:

15 “(F) during fiscal year 2012,
16 \$120,000,000,000;

17 “(G) during fiscal year 2013,
18 \$140,000,000,000; and

19 “(H) during fiscal year 2014 and each fiscal
20 year thereafter, \$160,000,000,000.”.

21 **SEC. 5. CONTENT GUIDELINES FOR THE PROVISION OF**
22 **BANK FINANCING.**

23 Section 2 of the Export-Import Bank Act of 1945
24 (12 U.S.C. 635) is amended by adding at the end the fol-
25 lowing:

1 “(i) CONTENT GUIDELINES FOR THE PROVISION OF
2 FINANCING.—

3 “(1) IN GENERAL.—The Bank shall, after no-
4 tice and comment and Board approval, establish
5 clear and comprehensive guidelines with respect to
6 the content of the goods and services involved in a
7 transaction for which the Bank will provide financ-
8 ing, which shall be aimed at ensuring that the Bank
9 enables companies with operations in the United
10 States to maintain and create jobs in the United
11 States and contribute to a stronger national econ-
12 omy through the export of their goods and services.

13 “(2) REQUIRED CONSIDERATIONS.—In estab-
14 lishing the guidelines, the Bank shall take into ac-
15 count such considerations as the Bank deems rel-
16 evant to meet the purposes described in paragraph
17 (1), including the following:

18 “(A) The needs of different industry sec-
19 tors to obtain financing from the Bank for ex-
20 porting their products or services in order to
21 create and maintain jobs in the United States.

22 “(B) The ability of companies with oper-
23 ations in the United States to compete effec-
24 tively for export opportunities that will create
25 and maintain jobs in the United States, par-

1 ticularly with respect to the Bank’s content re-
2 quirements and co-financing arrangements.

3 “(C) The totality of support, including fi-
4 nancing and subsidies, extended by export cred-
5 it agencies to support the exports of goods and
6 services, as well as key differences in, types of
7 trade-offs among, and national trade promotion
8 strategies of OECD member countries and of
9 non-OECD member countries.

10 “(D) Recommendations from the advisory
11 committee established under section 3(d), in-
12 cluding any dissenting views.

13 “(E) Any findings or recommendations of
14 the Government Accountability Office per-
15 taining to the ability of the Bank to provide fi-
16 nancing that is competitive with the financing
17 provided by foreign export credit agencies, to
18 enable companies with operations in the United
19 States to contribute to a stronger United States
20 economy by maintaining or increasing the em-
21 ployment of workers in the United States
22 through the export of goods and services.

23 “(F) The effects of the guidelines on the
24 manufacturing workforce and service workforce
25 of the United States.

1 “(G) The effect of changes to current
2 Bank content requirements on the incentive for
3 companies to create and maintain operations in
4 the United States in order to increase the em-
5 ployment of workers in the United States.

6 “(3) SEPARATE GUIDELINES.—

7 “(A) The Bank may establish separate
8 guidelines under this subsection for services and
9 for goods.

10 “(B) The Bank may establish separate
11 guidelines under this subsection for small busi-
12 ness concerns (as defined in section 3(a) of the
13 Small Business Act).

14 “(C) The Bank may continue separate
15 guidelines under this subsection with respect to
16 different terms and products.

17 “(4) CERTIFICATION THAT DOMESTIC CONTENT
18 HAS NOT BEEN REDUCED BECAUSE OF THE GUIDE-
19 LINES.—In determining whether to provide financ-
20 ing for a proposed transaction, the exporter shall
21 certify that the domestic content of a good has not
22 been reduced solely as a result of the guidelines.

23 “(5) PROCEDURAL PROVISIONS.—Within 60
24 days after the date of the enactment of this Act, the
25 Bank shall publish a notice with respect to the

1 issuance or modification of guidelines under this
2 subsection. Within 60 days after the end of the pub-
3 lic comment period otherwise required by law with
4 respect to the issuance or modification of the guide-
5 lines, the Bank shall submit to the Congress, for its
6 review, the guidelines in proposed final form. At the
7 end of the 30-day period that begins with the date
8 the proposed final guidelines are so submitted, the
9 proposed final guidelines shall be considered a final
10 agency action for all purposes and shall take effect
11 and be implemented immediately.

12 “(6) TERM.—Every 2 years, the Bank shall re-
13 view and, as appropriate, modify the guidelines, sub-
14 ject to paragraph (5).

15 “(7) REPORT TO CONGRESS.—Within 1 year
16 after the implementation of new or modified guide-
17 lines under this subsection, the Inspector General of
18 the Bank shall submit to the Congress a report eval-
19 uating the guidelines, which shall include—

20 “(A) a discussion of the considerations re-
21 quired to be taken into account in establishing
22 the guidelines, a comparison of how the guide-
23 lines reflect each consideration, and a descrip-
24 tion of the extent to which the guidelines en-
25 abled companies with operations in the United

1 States who submitted an application for financ-
2 ing from the Bank to maintain and create jobs
3 in the United States and contribute to a strong-
4 er national economy through the export of their
5 goods and services;

6 “(B) a description of the effect of the
7 guidelines on the number of domestic jobs to be
8 supported, the kinds of domestic jobs to be sup-
9 ported, including their duration and geographic
10 location, and the existence and nature of any
11 transfers of technology or production; and

12 “(C) recommendations for how the guide-
13 lines could be modified to better facilitate ex-
14 ports of goods and services from the United
15 States in order to maintain and create jobs in
16 the United States and contribute to a stronger
17 national economy.”.

18 **SEC. 6. BIENNIAL AUDITS OF BANK TRANSACTIONS.**

19 Section 2 of the Export-Import Bank Act of 1945
20 (12 U.S.C. 635), as amended by section 5 of this Act,
21 is amended by adding at the end the following:

22 “(j) AUDITS OF BANK TRANSACTIONS.—Every 2
23 years, the Comptroller General of the United States, in
24 consultation with Inspector General of the Bank, shall
25 audit a representative sample of Bank transactions to en-

1 sure that Bank underwriting, policies, due diligence, and
 2 content guidelines are met by applicants who receive Bank
 3 support.”.

4 **SEC. 7. USE OF PORTION OF BANK SURPLUS TO UPDATE IN-**
 5 **FORMATION TECHNOLOGY SYSTEMS.**

6 Section 3 of the Export-Import Bank Act of 1945
 7 (12 U.S.C. 635a) is amended by adding at the end the
 8 following:

9 “(j) AUTHORITY TO USE PORTION OF BANK SUR-
 10 PLUS TO UPDATE INFORMATION TECHNOLOGY SYS-
 11 TEMS.—

12 “(1) IN GENERAL.—Subject to paragraphs (3)
 13 and (4), the Bank may use an amount equal to 1.25
 14 percent of the surplus of the Bank during each fiscal
 15 year to—

16 “(A) seek to remedy any of the operational
 17 weakness and risk management vulnerabilities
 18 of the Bank which are the result of the infor-
 19 mation technology system of the Bank;

20 “(B) remedy data fragmentation, enhance
 21 information flow throughout the Bank, and
 22 manage data across the Bank; and

23 “(C) enhance the operational capacity and
 24 risk management capabilities of the Bank to

1 better enable the Bank to increase exports and
 2 grow jobs while protecting the taxpayer.

3 “(2) SURPLUS.—In paragraph (1), the term
 4 ‘surplus’ means the amount (if any) by which—

5 “(A) the sum of the interest and fees col-
 6 lected by the Bank; exceeds

7 “(B) the sum of—

8 “(i) the funds set aside to cover ex-
 9 pected losses on transactions financed by
 10 the Bank; and

11 “(ii) the costs incurred to cover the
 12 administrative expenses of the Bank.

13 “(3) LIMITATION.—The aggregate of the
 14 amounts used in accordance with paragraph (1) for
 15 all fiscal years shall not exceed \$20,000,000.

16 “(4) SUBJECT TO APPROPRIATIONS.—The au-
 17 thority provided by paragraph (1) may be exercised
 18 only to such extent and in such amounts as are pro-
 19 vided in advance in appropriations Acts.”.

20 **SEC. 8. MONITORING OF DEFAULT RATES ON BANK FI-**
 21 **NANCING; REPORTS ON DEFAULT RATES.**

22 Section 8 of the Export-Import Bank Act of 1945
 23 (12 U.S.C. 635g) is amended by adding at the end the
 24 following:

1 “(g) MONITORING OF DEFAULT RATES ON BANK FI-
 2 NANCING; REPORTS ON DEFAULT RATES.—

3 “(1) MONITORING OF DEFAULT RATES.—Not
 4 less frequently than quarterly, the Bank shall cal-
 5 culate the rate at which the entities to which the
 6 Bank has provided short-, medium-, or long-term fi-
 7 nancing are in default on a payment obligation
 8 under the financing, by dividing the total amount of
 9 the required payments that are overdue by the total
 10 amount of the financing involved.

11 “(2) REPORTS.—Within 45 days after a rate
 12 calculated under paragraph (1) equals or exceeds 2
 13 percent, the Bank shall submit to the Congress a
 14 written report that explains the circumstances that
 15 have caused the default rate to equal or exceed 2
 16 percent, and includes a plan to reduce the default
 17 rate to less than 2 percent.”.

18 **SEC. 9. SENSE OF THE CONGRESS REGARDING BANK AC-**
 19 **COUNTABILITY.**

20 It is the sense of the Congress that—

21 (1) the Board of Directors of the Export-Im-
 22 port Bank of the United States (in this section re-
 23 ferred to as the “Bank”) should establish a formal,
 24 transparent, and independent accountability mecha-
 25 nism that would review, investigate, and report on

1 allegations by affected parties of failure of the Bank
2 to follow its own policies and procedures, including
3 situations where the Bank is alleged to have failed
4 in its follow-up on the borrower's obligations in fi-
5 nancing agreements with respect to such policies and
6 procedures;

7 (2) such an accountability mechanism should be
8 able to provide advice to management on policies,
9 procedures, guidelines, resources, and systems estab-
10 lished to ensure adequate review and monitoring of
11 projects;

12 (3) in carrying out its mandate, the confiden-
13 tiality of sensitive business information should be re-
14 spected, and, in consultation with affected parties,
15 project sponsors, and Bank management, a flexible
16 process should be followed aimed primarily at cor-
17 recting project failures and achieving better results
18 on the ground; and

19 (4) the accountability mechanism should be
20 independent of the line operations of management,
21 and report its findings and recommendations directly
22 to the Board of Directors of the Bank.

1 **SEC. 10. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.**

2 Section 2(b)(9)(B)(iii) of the Export-Import Bank
3 Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by
4 striking “2011” and inserting “2015”.

5 **SEC. 11. EXTENSION OF AUTHORITY TO PROVIDE FINANC-**
6 **ING FOR THE EXPORT OF NONLETHAL DE-**
7 **FENSE ARTICLES OR SERVICES THE PRIMARY**
8 **END USE OF WHICH WILL BE FOR CIVILIAN**
9 **PURPOSES.**

10 Section 1(c) of Public Law 103–428 (12 U.S.C. 635
11 note; 108 Stat. 4376) is amended by striking “2011” and
12 inserting “2015”.

13 **SEC. 12. ELIMINATION OF OBSOLETE PROVISIONS.**

14 (a) FOREIGN CREDIT INSURANCE ASSOCIATION.—

15 (1) IN GENERAL.—Section 2(b)(1) of the Ex-
16 port-Import Bank Act of 1945 (12 U.S.C.
17 635(b)(1)) is amended by striking subparagraph (F)
18 and redesignating subparagraphs (G) through (L) as
19 subparagraphs (F) through (K), respectively.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 2(h)(2) of such Act (12 U.S.C.
22 635(h)(2)) is amended by striking “(J)” and
23 inserting “(I)”.

24 (B) Section 3 of such Act (12 U.S.C.
25 635a) is amended in each of subsections

1 (f)(1)(A) and (g)(7) by striking “(I)” and in-
2 serting “(H)”.

3 (C) Section 8 of such Act (12 U.S.C.
4 635g) is amended in each of subsections (c) and
5 (f)(8)(A) by striking “(J)” and inserting “(I)”.

6 (D) Section 8A(a)(5) of such Act (12
7 U.S.C. 635g–1(a)(5)) is amended by striking
8 “2(b)(1)(K)” and inserting “2(b)(1)(J)”.

9 (b) DEFINITION OF MARXIST-LENINIST COUNTRY.—
10 Section 2(b)(2)(B)(ii) of such Act (12 U.S.C.
11 635(b)(2)(B)(ii)) is amended by striking subclause (VII)
12 and redesignating subclauses (VIII) and (IX) as sub-
13 clauses (VII) and (VIII), respectively.

14 **SEC. 13. EFFECTIVE DATE.**

15 This Act and the amendments made by this Act shall
16 take effect on October 1, 2011.

○